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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,549	08/22/2003	Kathy S. Houchen		9138

7590

09/06/2005

Kathy S. Houchen  
Rhonda A. Smith  
2017 37th Street, SE, #202  
Washington, DC 20020

EXAMINER
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HILL, LAURA C

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/645,549

EXAMINER
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ART UNIT	PAPER
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20050830

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

<b>Office Action Summary</b>	Application No. 10/645,549	Applicant(s) HOUCHEN ET AL.	
	Examiner Laura C. Hill	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/22/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Disposable Feminine Panty with Attached Sanitary Napkin Combination.

2. The 'elastic waist band' 155, 255 as shown in the figures and as recited in claims 1 and 10 is not included in the specification.
3. The disclosure is objected to because of the following informalities: on page 4, paragraph 0020, lines 6-7 of the specification 'pad 4 is sandwiched in a pocket or pouch sealed by top portion lining 6 and bottom lining 8' is referred to as the 'sanitary pad is sandwiched between top and bottom portion' in claim 5.

Appropriate correction is required.

### ***Claim Language Interpretation***

4. The 'sanitary pad is sandwiched between top and bottom portion' as recited in claim 5 is interpreted to mean the sanitary pad is either located between the top and bottom surfaces of the crotch portion but is not necessarily limited to being sandwiched between multiple layers that comprise the crotch portion.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2 and 4-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (US 3,237,625). Johnson discloses disposable cotton brief-style baby panty 10 comprising a back portion 12 connected to front portion 11, connected crotch portion 13, elastic waist aperture, multi-layers 33,34,35/sanitary pad which draw and wick moisture away from the skin sandwiched between top and bottom portion that are secured to the first layer 20 of crotch portion 13 by means of stitching 36 and by binding strips/fusing 25, 26 (column 1, lines 59-64, col. 2, lines 4-14, and lines 37-50, figures 1-3).

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Titone et al. (US 2,748,772). Titone et al. discloses disposable panty 10 made from low cost cheese-cloth material, an elastic waist opening 20, crotch portion 26 which includes sanitary napkin 28 held in place by stitching 32 around the periphery of the inner wall 30 of the crotch portion (column 2, lines 1-27, figures 1 and 3).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US 3,237,625) as applied to claim 1 above, and further in view of Southwell (US 4,560,381). Johnson discloses the brief-style baby panty 10 as discussed above with respect to claim 1. Johnson does not expressly disclose a bikini-style undergarment. Southwell discloses a disposable woman's protective menstrual panty that may be used with any size, type or shape of outer panty shell such as brief, bikini, etc and having depression means for holding a feminine napkin (column 3, lines 61-column 4, line 6, column 5, lines 51-60). One would be motivated to modify the brief-style of Johnson with the bikini-style of Southwell since both references disclose disposable panties with a combination of attached absorbent napkin means. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the undergarment style of Johnson, thus providing a bikini-style undergarment.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Parravicini (US 3,424,162) is cited for showing disposable hygienic panty made of cellulose with elastic waistband 13 and sewn cotton insert 15. De Woskin (US 2,678,648) is cited for showing nylon sanitary panty 1 with plastic-coating inner side and sanitary napkin attached via fastener 33. Bonito (US 4,718,902) is cited for showing an inexpensive frill or bikini cotton or silk panty 10, elastic waistband

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17, and stitched washable panty liner 11 used in addition to an external sanitary napkin.

Leathers (US 4,940,463) is cited for showing disposable bikini cotton, paper, or plastic panty 10 in combination with an attached sanitary napkin 12 in the crotch region.

Osborn et al. (US 5,827,261) is cited for showing washable menstrual panty 28 with catamenial pad assembly 50 connected in the crotch region via hook and loop fasteners 84, 86, 88 and elastic waistband 24. Ismail (US 6,616,649) is cited for showing pad 30 connected to underwear 10 in crotch part 14 via hooks 40.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137. The examiner can normally be reached on Monday through Friday (off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Laura C. Hill  
Examiner  
Art Unit 3761

LCH

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TATYANA ZALUKAEVA  
PRIMARY EXAMINER

*Taluka*